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EXAMINER

VAN HANDEL, MICHAEL P

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



## DETAILED ACTION

### *Response to Amendment*

1. This action is responsive to an Amendment filed 9/27/2006. Claims **1, 81-103** are pending. Claims **1, 91** are amended. Claims **2-80** are canceled.

### *Response to Arguments*

2. Applicant's arguments regarding claims **1, 91, 95, and 99**, filed 9/27/2006, have been fully considered, but they are not persuasive.

Regarding claims **1, 91, 95, and 99**, the applicant argues that Payton does not teach or reasonably suggest prioritizing the content in response to a feedback received from the one or more clients, wherein the feedback is automatically generated transparent to the one or more clients based on an amount of content consumed by the one or more clients. The examiner respectfully disagrees.

Payton discloses a digital information system for delivering virtual on-demand information over digital transport systems by offloading a portion of the systems' peak bandwidth requirements to the local subscribers. A local collaborative filtering system synthesizes the preferences of all of the subscribers and then predicts those items that each subscriber might like, and therefore request. Each subscriber is provided with a local storage device for storing, during off-peak hours, those items recommended by the collaborative filtering system (see Abstract).

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A central distribution server merges common requests, places them in a queue based on relative demand, and then broadcasts them to all of the subscribers (col. 3, l. 12-15). The central distribution server includes a subscriber data base 38 that stores a subscriber profile 40 for each of the subscribers. The subscriber profile 40 includes a rating vector (Fig. 6) in which the subscriber has rated each of the items he or she has previously requested (col. 5, l. 6-10). This is accomplished by recording a positive vote when the subscriber uses the item (col. 6, l. 41-42). This meets the limitation of “wherein the feedback is automatically generated transparent to the one or more clients based on an amount of content consumed by the one or more clients,” as currently claimed. A collaborative filtering system 42 synthesizes the subscriber profiles 40, predicts which of the available items 36 each subscriber may be interested in or may request, and produces a list 44 of those recommended items for each subscriber. This list comprises a mix of the highest recommended items and a few previously viewed items that the subscriber rated very highly, and is thus likely to request again (col. 5, l. 12-20). A scheduling processor 46 merges the lists 44 of recommended items to prioritize the items 36 from the most to the least frequently recommended and places identifiers for those items in a refresh queue 47 for broadcast over the digital transport system 26 (col. 5, l. 21-26). This meets the limitation of “prioritizing the content in response to a feedback received from the one or more clients,” as currently claimed. Thus, the examiner maintains that Payton meets the limitation “prioritizing the content in response to a feedback received from the one or more clients, wherein the feedback is automatically generated transparent to the one or more clients based on an amount of content consumed by the one or more clients,” as currently claimed.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **1, 81, 83, 84-92, 95, 96, 98-101, 103** are rejected under 35 U.S.C. 102(b) as being anticipated by Payton.

Referring to claims **1, 88, 89, 91, 95, 99, and 100**, Payton discloses a method/machine-readable medium/system/apparatus, comprising:

- broadcasting first content descriptors to one or more clients, the first content descriptors describing the content for broadcast (col. 3, l. 2-6 & col. 5, l. 6-10);
- prioritizing the content in response to a feedback received from the one or more clients (col. 3, l. 13-14 & col. 5, l. 22-24), wherein the feedback is automatically generated transparent to the one or more clients based on an amount of content consumed by the one or more clients (col. 6, l. 41-42, 48-50);
- broadcasting second content descriptors, the second content descriptors describing the prioritized content for broadcast (col. 3, l. 15-17; col. 6, l. 1-9, l. 67; & col. 7, l. 1-3);  
and
- broadcasting the prioritized content to the one or more clients (col. 3, l. 14-15; col. 5, l. 24-26; & col. 7, l. 3-7).

Referring to claims **81, 92, 96, and 101**, Payton discloses the method/machine-readable medium/system/apparatus of claims 1, 91, 96, and 99, respectively, wherein the feedback

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received from the one or more clients is received in a batch (the examiner notes that by sending the subscriber profile data in response to a periodic trigger, the data is sent in a batch)(col. 7, l. 65-67 & col. 8, l. 1-4).

Referring to claims **83** and **90**, Payton discloses the method of claim 1, further comprising updating one or more demand data tables at the one or more clients in accordance with the first and second content descriptors (col. 3, l. 15-17; col. 6, l. 67; & col. 7, l. 1-3, 61-65).

Referring to claim **84**, Payton discloses the method of claim 83, further comprising selectively storing content in accordance with the one or more demand data tables (col. 6, l. 1-4 & col. 8, l. 26-37).

Referring to claim **85**, Payton discloses the method of claim 84, further comprising updating the one or more demand data tables by the one or more clients (the examiner notes that the list of recommended items is updated in response to user ratings/usage. See the citations noted with regard to claim 1 above).

Referring to claims **86**, **98**, and **103**, Payton discloses the method/system/apparatus of claims 1, 95, and 99, respectively, further comprising filtering the content received from a server based on the content the one or more clients are interested in (col. 8, l. 26-36).

Referring to claim **87**, Payton discloses the method of claim 1, wherein the content first and second content descriptors include metadata to describe the content and the prioritized content (the examiner notes that data describing the transmitted items is necessary and inherent to Payton, in order to allow a subscriber interface 58 to display the list of recommended items)(col. 6, l. 7-9, 26-29, 67 & col. 7, l. 1-3).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims **82, 93, 94, 97, 102** are rejected under 35 U.S.C. 103(a) as being unpatentable over Payton.

Referring to claims **82, 93, 97, and 102**, Payton discloses the method/machine-readable medium/system/apparatus of claims 1, 91, 97, and 99, respectively. Payton further discloses that subscriber profiles are communicated between the central distribution server and the subscribers over a low bandwidth back channel (col. 3, l. 2-6 & col. 6, l. 51-58). Payton still further discloses that the local server 28 sends new subscriber profile data in response to a periodic trigger (col. 7, l. 65-67 & col. 8, l. 1-4). Payton does not disclose staggering the sending of feedback to a server by one or more clients, wherein the staggering is based on a last time each of the one or more clients sent feedback to the server; however, the examiner takes Official Notice that it is well known within the prior art to stagger the sending of information across a network to minimize network congestion. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Payton's method of periodically sending subscriber profile data across a low bandwidth back channel to include staggering the sending of information, such as that taught by the prior art in order to minimize network congestion.

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Referring to claim 94, Payton discloses that the one or more clients filter the content received from the server based on the content the one or more clients are interested in (col. 8, l. 26-36).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571-272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MVH

  
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